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To: Home Health Agencies

HHA 09

From: Jan Eakins, Chief
Provider Regulation & Quality Improvement Section

Via: Susan Schroeder, Director
Bureau of Quality Assurance

**Home Health Update
Chapter HFS 133, Wisconsin Administrative Code**

Since the promulgation of revisions to ch. HFS 133, Wisconsin Administrative Code, effective May 1, 2001, the Bureau of Quality Assurance (BQA) has received numerous questions related to patient discharge regulations. This memorandum addresses questions relating to the revisions on the following topics:

- Section HFS 133.09, requirements for discharge of patients.
- Statewide variance to sec. HFS 133.21(5)(i), requirements for discharge summaries.
- Resources

Section HFS 133.09 (3)(a),
Notice of Discharge

Question: What information must be included in the notice of discharge provided to the patient at the time of discharge?

Response: Section HFS 133.09 (3)(a) requires that the home health agency include all of the following in every written discharge notice to a patient or the patient's legal representative:

- * The reason for discharge;
- * A notice of the patient's right to file a complaint with the department;
- * The department's toll-free home health hotline telephone number; and
- * The address and telephone number of the department's Bureau of Quality Assurance.

Question: Home health agencies are required to provide information about the right to file a complaint and the process for filing a complaint with the Department upon admission. Are they required to provide this information again in writing upon discharge?

Response: Yes, s. HFS 133.09(3)(a)5.b. requires a home health agency to provide this information at the time of discharge.

Question: Do home health agencies have to give a written notice if the patient is being discharged with goals met and care is discontinued?

Response: If the patient is being discharged because goals have been met and the physician has discontinued the plan of care, the agency should provide the patient with a written notice at the time of discharge. The agency must discuss the discharge with the patient or the patient's legal representative and the attending physician prior to the discharge. The clinical record documentation must reflect these contacts and discussions.

Question: Is a notice of discharge necessary if the patient is going from Medicare/Medicaid covered services to private pay?

Response: If the payment source changes and the patient is not being discharged from the agency, there is no need to provide a written notice of discharge.

Question: Do home health agencies have to give the patient a 10-day notice if the patient is being discharged due to the patient's non-payment of fees or the agency's inability to provide services?

Response: If the reason for discharge is non-payment of fees or the agency's inability to provide the care due to a change in patient condition that is not an emergency, the patient must be given the written notice 10 days in advance of the discharge. In addition, if the patient has needs which the home health agency cannot meet, s. HFS 133.11 requires the agency to refer the patient to other resources that may be appropriate to meet those needs.

Question: Are home health agencies required to provide a notice of discharge to patients who refuse the continuation of services and discharge themselves?

Response: A home health agency cannot prohibit the patient from discontinuing services and discharging himself or herself. The agency must inform the attending physician of the patient's decision to discontinue services. If the physician concurs with the patient's request to discontinue service, the agency would process and document the physician's discharge of the patient. The agency would then provide the patient with a notice of discharge pursuant to s. HFS 133.09 (3)(a)3.c.

If the physician disagrees with the patient's decision to discontinue services, and the agency and the physician are unsuccessful in persuading the patient to continue services, the clinical record documentation should reflect the patient's decision to discontinue services. Section HFS 133.08(2)(e) allows a patient to refuse treatment to the extent permitted by law and to be informed of the medical consequences of such refusal. The agency would inform the physician of the last date of service. The clinical record documentation must reflect patient notification, physician contacts, coordination efforts and the actions of the patient, attending physician and agency.

Although s. HFS 133.09 does not require the agency to provide a patient who discontinues services with a notice of discharge, s. HFS 133.08(2)(c) requires the agency to inform the patient

of all changes in services and charges as they occur. Accordingly, the agency would need to provide a notice to the patient regarding the cessation of services without physician authorization and the medical consequences of this service refusal.

Question: Section HFS 133.09(3)(b) requires the agency to complete a written discharge summary within 30 calendar days following the discharge of a patient, but s. HFS 133.21(5)(i) states that the medical record must contain a discharge summary that is completed within 15 days following discharge. Does the agency have 15 or 30 days to complete the written discharge summary?

Response: The discrepancy between s. HFS 133.09 (3)(b) and s. HFS 133.21(5)(i) for the number of days to complete the discharge summary was an unintended result of the recent revision of ch. HFS 133.

To resolve this discrepancy, *effective immediately*, the BQA will permit home health agencies to receive a variance to the current requirement of s. HFS 133.21 (5)(i), for completion of the discharge summary within 15 days following discharge. Specifically, the variance will permit home health agencies to complete the discharge summary within 30 days instead of 15 days following the discharge of the patient.

This variance will not require a separate request for approval. Compliance will be evaluated in each agency at the time of an on-site survey. The discrepancy between the two rules will be resolved in a future revision of ch. HFS 133.

The BQA has determined that this variance would not jeopardize the health, safety or welfare of any home health agency patient. The Bureau may rescind this variance at any time if it finds the variance has an adverse effect on the health, safety or welfare of a home health agency patient.

Resources

Please direct any questions you may have to:

- Jane Walters, Health Care Regulatory Northern Unit Supervisor, at walteja@dhfs.state.wi.us or 608-267-7389,
- Juan Flores, Health Care Regulatory Southern Unit Supervisor, at florejj@dhfs.state.wi.us or 608-261-7824, or,
- Barbara Woodford, Home Health Nurse Consultant, Provider Regulation & Quality Improvement Section at woodfba@dhfs.state.wi.us or 715-855-7310.